

REMARKS

Status of the claims

Claims 1-8, 10-15, 17-20, 22-31 and 33-36 were pending in this application. With this Response, claims 1, 17 and 23 have been amended. No claims have been canceled nor have any new claims been added. Upon entry of these amendments, therefore, claims 1-8, 10-15, 17-20, 22-31 and 33-36 will remain pending and under active consideration.

Applicants respectfully request entry of the amendments and remarks made herein into the prosecution history of the present invention. Reconsideration and withdrawal of the rejections set forth in the above-identified Office Action is respectfully requested.

Support for claim amendments

The independent claims have been amended to recite label application systems which use, in part, "air as a propellant." Support for such an amendment may be found explicitly and implicitly throughout the specification and original claims and, at least, in the Abstract and in paragraph 0009. Hence, Applicants respectfully submit that no new matter has been introduced by virtue of the current amendments.

Claim rejections under 35 U.S.C. § 103

All of the claims stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the stated combinations of USP No. 6,199,614 ("Snyder") in view of USP Nos. 6,024,149 ("Bernhard"); 5,853,530 ("Allen"); and 5,300,181 ("Yamaguchi") and further in view of 3,436,294 ("Marano"); 3,682,743 ("Cleary"); or 6,220,330 ("O'Brien") for the reasons stated in the Office Action. Applicants respectfully traverse this rejection.

In order to properly establish a *prima facie* case of obviousness, each and every element of the claimed invention must be found in one or more of the combined references. And even if each and every element of the claimed invention may be found in the art, a motivation or suggestion to combine the references to arrive at the claimed invention must be established from

the prior art. The “motivation to combine” requirement has been judicially implemented to place a check on the lure of using hindsight in any determination of obviousness.

In the Response dated March 08, 2006 (hereinafter, “last Response”), Applicants respectfully argued that each limitation of the claimed invention could not be found in any of the cited art, alone or in combination. Specifically, it was argued that the cited art provided no teaching or suggestion of an applicator system comprising an applicator head having a face to receive the label and two angled surfaces, the surfaces joining at an angle from a midpoint of a said face of the applicator head. The Examiner, however, found Applicants’ arguments unpersuasive and maintained his view that Yamaguchi taught a “label receiving face at an angle at the midpoint.”

Applicants respectfully disagree with the Examiner’s interpretation of the Yamaguchi Figures. Nonetheless, even if Applicants were to accept the Examiner’s position for the moment, Applicants respectfully submit that the Examiner has failed to additionally show where in the art one of ordinary skill would find the motivation to combine the cited references to arrive at the presently claimed invention. Hence, as will be expounded below, Applicants respectfully maintain that a *prima facie* case of obviousness has not been established and respectfully traverse the Section 103 rejection.

The label dispensing art is not monolithic—different label applicator systems face unique problems requiring independent solutions, solutions which may not be found or be obvious in disparate disciplines. Such is the case between label applicators which physically press a label onto a target (hereinafter, “‘press’ label applicators”) and label applicators which use a blast of air (propellant) to guide a label to a target (hereinafter, “‘air-propelled’ label applicators”), which may be several inches to more than a foot away. Indeed, one of the most significant issues today facing label application systems, which use air as a propellant, is the need for technology that allows direct and controlled trajectory of labels. In addition to the trajectory *per se*, these air-propelled label application systems must avoid flipping, tumbling, or any other 2D or 3D movement of the label from the moment it leaves the label applicator to the moment it strikes the target. It should go without saying, these technological hurdles need not concern artisans skilled

in label applicators that press a label directly onto a target. Equally important and for these reasons, one skilled in the art of *air-propelled* label application systems would not expect to find a solution in the art of *press* applicators.

The compendium of cited art, however, improperly draws from both press and air-propelled label applicator technologies. Applicants respectfully submit that Examiner, only with the benefit of Applicants' own disclosure as a blue-print, selected those elements from four, sometimes five or more references, to arrive at the claimed invention. However, the Examiner has failed to point to any reference which would provide one of ordinary skill in the art the motivation to combine elements from press applicators (e.g., Snyder, Yamaguchi) with elements from air-propelled label applicators (e.g., Bernhard, Allen).

To be sure, there may arguably be motivation to combine teachings between the two arts for those technical areas, which are independent of the method of label application *per se* (i.e., press vs. air-propelled). For example, there may be motivation to swap technology with respect to label liner take-up motors, which technology is arguably independent of whether the label applicator presses or air-propels its labels.

The novel applicator head of the present invention, however, provides unexpected advantages *unique* to air-propelled label applicators, which advantages would not be appreciated, let alone useful, to press label applicators. In particular, the present inventors have learned that an applicator head having a receiving surface that forms an angle from a midpoint of the surface, enables a label thereon to reach the target without flipping or rolling. Without being held to or bound by theory, the present inventors believe that by imparting an angle upon an otherwise flat label, relatively greater structural strength is achieved, which in turn, provides additional rigidity to the label.

Whereas enhanced rigidity may be insignificant to press-based label applicators that directly press the label onto a target, label applicators which use air as a propellant greatly benefit from labels with additional rigidity. By way of example, greater rigidity allows the label to "fly"

through the air with a straighter trajectory than otherwise possible. Having an angle, has further aerodynamic advantages that improve trajectory and undesirable label rolling or flipping in mid-“flight.” These advantages have real and substantial practical benefits that do not concern press-applicators, yet greatly improve the utility of air-propelled applicators. For example, with the inventive system, Applicants have achieved label blowing of up to 18 inches from the applicator head to the target with accuracy rates of 99 percent or higher. Such values were heretofore not possible.

Taken together, Applicants respectfully submit that the Office has not properly established a *prima facie* case of obviousness. It is further noted that Applicants have amended the claims to label application systems and methods, which use “air as a propellant.” Considering the unique problem(s) facing the field of air-propelled label applicators, there is simply no motivation for one of ordinary skill in the art to look to the art of press applicators. The Examiner has not established a case otherwise.

For at least these reasons, Applicants respectfully submit that the claims, as amended, are not rendered obvious by any of the cited art. Accordingly, Applicants respectfully request withdrawal of same rejections.

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested. The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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By 

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 295-4621
Facsimile: (202) 672-5399

Gilberto M. Villacorta, Ph.D.
Registration No. 34,038
Sunit Talapatra, Ph.D.
Registration No. 54,482